

being unpatentable over Wallace. Claims 3, 13, 27, 28, 31, and 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Wallace in view of U.S. Pat. No. 5,885,245 to Lynch et al. ("Lynch"). Applicants respectfully traverse these rejections.

By this Response, Applicants amended Claims 1, 10, 11, 21, 30, 35 and 36. Each of these claims have been amended merely for clarification purposes only, and have not been amended for any purpose related to patentability.

Applicants would also like to note that they presented remarks and explanation to the Examiner for the identical prior-art reference during a telephonic interview of May 6, 2002, and the Examiner found these arguments persuasive and entered an Interview Summary Record stating that an agreement had been reached. In light of the May 6, 2002 telephonic interview, Applicants provided amendments in compliance with the Examiner's request to overcome the Wallace reference. Now, the Examiner has again cited the Wallace reference even though Applicants previously demonstrated to the Examiner's satisfaction how the claims meet all of the requirements of title 35 of the United States Code. Applicants respectfully request that the Examiner consider the Applicants' present remarks and amendments, which are consistent with, but further explanatory to the Applicants' prior arguments which were previously agreed to by the Examiner. In view of such, Applicants believe the present application is in condition for allowance and respectfully request early notice of same.

#### **I. Claim Rejections**

Each of the independent claims require that the programmable medical device comprise a routine that is responsive to a status of the programmable medical device **without user input** for selectively displaying only those entry keys required by the status. As previously discussed, and as shown below, the disclosure of Wallace does not disclose or render obvious these limitations.

In the present Office Action, the Examiner has taken the position that Wallace teaches the selective display of on-screen buttons in response to apnea alarms which do not require user input. (See col. 20, lines 13-32.) This is not a correct reading of the disclosure of Wallace.

Beginning at column 19, line 58, Wallace discloses a procedure whereby:

- a. “[T]he respirator processor 60 (FIG. 2) is responsive to signals received from a sensor 27 in the ventilator to provide inspiration.” (Col. 19, lines 58-60.)
- b. Next, the “respirator processor 60 may be programmed to monitor the rate at which a patient triggers the sensor, and, when that rate falls below a predetermined number of breaths per minute, the value of which may be stored in the memory 65 (FIG. 2), the respirator processor 60 sends a signal through the interface 32 to the processor 30 of the graphic user interface 20.” (Col. 19, line 54 through Col. 20, line 3.)
- c. In response to this signal, the processor 30 displays an “Apnea Ventilation In Progress” screen 600 in area 130 of the upper display 60, as depicted in FIG. 14.” (Col. 20, lines 3-6.)

Accordingly, based on attaining some alarm condition, the ventilator processor 60 of Wallace may send a signal to the processor 30 of the graphic user interface 20 to display a static screen as depicted in FIG. 14. The screen in FIG. 14, however, merely displays (1) an indication that apnea ventilation is in progress, and (2) a display of the currently programmed settings. The screen of FIG. 14 is **not** “a display of a plurality of entry keys disposed in a spatial configuration,” and is **not** a display of “only those entry keys which are required by the status for inputting commands to the programmable medical device” as recited in Applicants’ independent claims. None of the cells in FIG. 14 are entry keys. Accordingly, this portion of Wallace does not hinder the patentability of Applicants’ claims.

Next, when the respirator processor 60 automatically institutes “Apnea” mode in response to a lack of inspiration by the patient, the respirator processor 60 controls the apnea ventilation using values of various settings entered by the user from an apnea setup screen 650. (Col. 20, lines 13-17.) The appropriate buttons of the apnea setup screen 650 of FIG. 15, however, are displayed only **by user intervention, not by a responsive routine**. The disclosure of Wallace specifically states that

the respirator processor 60 controls the apnea ventilation using values of various settings entered by the user from an apnea setup screen 650 that may be displayed in the information area 160 of the lower screen 70 as depicted in FIG. 15 **by touching the “Apnea” on-screen button 322** on the lower screen 70 of the graphic user interface.” (Col. 20, lines 15-21.)

It is this **“touching” by the user** of the “Apnea” button which provides for an apnea setup screen 650, not by a routine responsive to the status of the programmable medical device. Accordingly, Wallace does not disclose or render obvious the limitations of Applicants’ claims.

Moreover, Applicants also state that Wallace does not disclose a routine which is responsive to a status of the medical device without user input **during each phase of control or programming**. This feature of Applicants’ invention is extremely useful for simplified programming, especially where the programming of a medical device takes place over several screen iterations and at distinct intervals. Contrary to the Examiner’s assertions, there is no disclosure in Wallace to indicate such a responsive routine occurring during all phases of programming.

## **II. Conclusion**

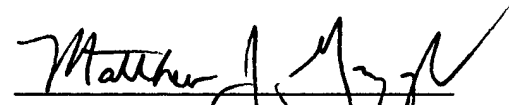
For the above reasons, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of the claims under §§ 102(e) and 103(a). In view of the amendments made herein and the foregoing remarks, Applicants submit this application is in condition for

allowance. Such action is respectfully requested. The Examiner is requested to contact the undersigned if the Examiner has any questions concerning this Reply.

Respectfully submitted,

Date: December 26, 2002

By:

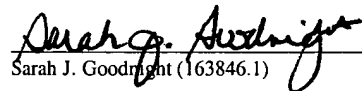
  
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Express Mail Label No. EL954221747US

Date of Deposit: December 26, 2002

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## **APPENDIX A: Marked-up Claims**

1. (Thrice Amended) A programmable medical device, comprising:
  - a display device;
  - an input device for allowing a user to input commands to control the programmable medical device, the input device comprising:
    - a routine, responsive to a status of the programmable medical device [and] without user input, for generating a display of a plurality of entry keys disposed in a spatial configuration and for selectively displaying on the display device only those entry keys which are required by the status for inputting commands to the programmable medical device during each phase of control or programming; and
    - a selector for allowing a user to activate the displayed keys to allow the user to input commands to control operation of the programmable medical device.
10. (Amended) The programmable medical device of claim 1 wherein the display device comprises [an LCD] a liquid crystal display (LCD).
11. (Thrice Amended) A programmable medical device, comprising:
  - a display device;
  - an input device for allowing a user to input commands to control the programmable medical device, the input device comprising:
    - a plurality of entry keys disposed in a spatial configuration;
    - a routine, responsive to a status of the programmable medical device [and] without user input, for selectively enabling only those entry keys which are required by the status for inputting commands to the programmable medical device.
21. (Thrice Amended) A controller for controlling a programmable medical device comprising:
  - a display device;

a routine, responsive to a status of the programmable medical device [and] without user input, for generating a display of a plurality of entry keys disposed in a spatial configuration and for selectively displaying on the display device only those entry keys which are required by the status for inputting commands to the programmable medical device during each phase of control or programming; and

a selector for allowing a user to activate the displayed keys to allow the user to input commands to control operation of the programmable medical device.

30. (Thrice Amended) A medical apparatus comprising:

a programmable medical device, the programmable medical device being disposed at a first location and comprising:

an input device for allowing a user to input commands to control the medical device, the input device having a plurality of entry keys disposed in a spatial configuration; and

a remote controller for monitoring and controlling the programmable medical device, the remote controller being positionable at a second location remote from the first location but in communication therewith, the remote controller comprising:

a display device;

a routine, responsive to a status of the programmable medical device [and] without user input, for generating a display of a plurality of virtual entry keys disposed in a spatial configuration and for selectively displaying on the display device only those virtual entry keys which are required by the status for inputting commands to the programmable medical device; and

a selector for allowing a user to activate the displayed virtual entry keys to allow the user to input commands to control operation of the programmable medical device.

35. (Thrice Amended) A method for controlling a programmable medical device, the programmable medical device having a display device, an input device for allowing a user to input commands to control the programmable medical device, the input device having a routine, responsive to a status of the programmable medical device [and] without user input, for

generating a display of a plurality of entry keys disposed in a spatial configuration and for selectively displaying on the display device only those entry keys which are required by the status for inputting commands to the programmable medical device; and a selector for allowing a user to activate the displayed keys to allow the user to input commands to control operation of the programmable medical device, comprising the steps of:

- determining the status of the programmable medical treatment device;

- selecting those entry keys which are required by the status for inputting commands to the programmable medical device; and

- displaying only those entry keys which are required by the status for inputting commands to the programmable medical device.

36. (Thrice Amended) A method for controlling a programmable medical device, the programmable medical device having a display device, an input device for allowing a user to input commands to control the programmable medical device, the input device having a plurality of entry keys disposed in a spatial configuration; and a routine, responsive to a status of the programmable medical device [and] without user input, for selectively enabling only those entry keys which are required by the status for inputting commands to the programmable medical device comprising:

- determining the status of the programmable medical device during each phase of control or programming ;

- selecting those entry keys which are required by the status for inputting commands to the programmable medical device; and

- enabling only those entry key which are required by the status for inputting commands to the programmable medical device.